

COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS
DEPARTMENT OF ENVIRONMENTAL PROTECTION
OFFICE OF APPEALS AND DISPUTE RESOLUTION

In the matter of:)
) OADR Docket Nos: 2019-008 through
Algonquin Gas Transmission, LLC) 2019-013 Weymouth
)
)

AFFIDAVIT OF GLENN KEITH

I, Glenn Keith, do hereby depose and state the following is true:

My name is Glenn Keith. I am employed by the Massachusetts Department of Environmental Protection (MassDEP). I am the Director of the Division of Air and Climate Programs within MassDEP's Bureau of Air and Waste.

I am filing this affidavit in response to the ORDER TO SHOW CAUSE issued on May 20, 2019 by Presiding Officer Jane A Rothchild. The testimony I provide below responds to the questions posed in the ORDER regarding the revised laboratory reports received by MassDEP from Alpha Analytical ("Alpha"). The testimony I provide below is based on my personal knowledge or information I learned from reviewing the attached emails and speaking with other MassDEP employees.

1. When did the Department first receive the data?

Response 1: MassDEP received a total of seven revised laboratory reports¹ from Alpha that came in separate emails. An initial set of data was received on Friday, May 10, 2019 at 3:49 pm.

¹ Alpha originally reported sample results for 40 volatile organic compounds (VOCs). In late April 2019, MassDEP learned that Alpha could calculate and report results for an additional 24 VOCs based on the original samples that had been taken in 2018. On May 2, 2019, MassDEP asked Alpha to report data on the additional 24 VOCs.

The complete data (all seven reports) were not received until Monday, May 13, 2019 at 4:59 pm.

Specific details of when the reports were received by staff within MassDEP are below:

- On Friday, May 10, 2019, Kathy Kiley, Contract Administrator in the Bureau of Waste Site Cleanup, received three reports from Alpha in separate emails (one at 3:59 pm and two at 4:00 pm).
- On Sunday, May 11, 2019 at 8:36 am Ms. Kiley sent an email to Alpha with the three emails attached and copied me.
- On Monday, May 13, 2019, Ms. Kiley received the remaining four reports from Alpha in four separate emails (at 4:42 pm, 4:44 pm, 4:53 pm, and 4:59 pm). I also received the same four reports from Alpha in four separate emails (at 4:42 pm, 4:44 pm, 4:53 pm, and 4:59 pm).
- On Tuesday, May 14, 2019, in the early afternoon Anthony Pikul, Chief of Air Assessment Branch Laboratory Operations, accessed Alpha's online customer portal and downloaded spreadsheets of the data contained in the Alpha reports.

2. Identify all persons employed by the Department who received the data directly from the laboratory, and further identify all persons within the Department who were informed that the data had been received, including the date and time each of the referenced persons were so informed.

Response 2: The persons who received the data directly from Alpha are Ms. Kiley, myself, and Mr. Pikul, as described in Response #1. Below is a description of further persons within MassDEP who were informed that the data had been received:

- On Monday, May 13, 2019 at 10:10 am I emailed the three Alpha reports I had received to Sean Dunn, Deputy Director of the Air Assessment Branch. At 12:00 pm Mr. Dunn

sent instructions to Mr. Pikul about accessing spreadsheets of the data from Alpha's online customer portal.

- On Monday, May 13, 2019 at approximately 10:15 am I attended a meeting with Jenny Outman, MacDara Fallon, Lauren Karam, Glenn Pacheco, and Sandra Baird, and told them that the Alpha reports were being received.
- On Monday, May 13, 2019, in the early afternoon I spoke with Stephen Coughlin, Meteorologist in the Air Planning Branch, and to Tom Higgins, Chief of the Communications Branch within the Bureau of Air and Waste, about the Alpha reports.
- On Monday, May 13, 2019, at 3:52 pm I left a voicemail for Deputy Commissioner Gary Moran that the Alpha reports were being received and that final reports were expected by the end of the day. At 5:19 pm Mr. Moran sent an email regarding the reports that included Michael Dingle and Assistant Commissioner Christine Kirby.
- On the morning of Tuesday, May 14, 2019 Mr. Moran informed General Counsel Benjamin Ericson, Commissioner Martin Suuberg, and Deputy Commissioner Stephanie Cooper by phone that the data had been received.
- On Tuesday, May 14, 2019, at 3:33 pm Mr. Coughlin sent an email regarding the reports and copied Mark Wert, Chief of the Air Planning Branch.
- On Thursday, May 16, 2019 at approximately 12:30 pm Thomas Cushing attended a meeting with Mr. Moran, Mr. Pacheco and myself and learned that the Alpha Reports had been received.
- On Thursday, May 16, 2019 at 5:04 pm, I sent an email to Kellie Ingram, MassDEP Internet Services, and Anthony Abruzese, MassDEP Internet Services, with a link to the Alpha reports.

- On Friday, May 17, 2019 at 9:07 am, Mr. Moran sent an email regarding the reports that included Communications Director Edmund Coletta, Legislative Director Anthony Veilleux, and Chief of Staff Brian Ferrarese.

3. Why did the Department not disclose the existence of the data to the parties to these appeals until four days after the data were received, and two full days after the commencement of the Hearing?

Response 3: It is a standard practice of MassDEP to review environmental data before making the data public to confirm what the data are and what information it contains. This process typically takes several days to several weeks depending on the amount and complexity of the data. The review of the Alpha data was performed as promptly as reasonably possible given my being in Washington DC on Tuesday, May 13 and Wednesday, May 14, 2019 and time constraints created by the adjudicatory hearing. It was done on an expedited basis in this case due to the interest of the public and the parties in the data, and was conducted over Tuesday and Wednesday.

Consistent with MassDEP's practice for any high profile matter, on the morning of Thursday, May 22, 2019, Mr. Moran sent an email notifying the Executive Office of Energy and Environmental Affairs regarding the additional information, MassDEP's initial analysis, and a plan to provide the information to the counsel involved in the adjudicatory hearing and to post the information publicly.

MassDEP posted the data on its website on Thursday, May 16, 2019 and Ms. Karam sent an email at 5:52 pm to all counsel involved in the adjudicatory hearing, giving them notice that the data could be found on MassDEP's web site and providing a link to the data.

4. Did the Department disclose the existence of the data to the Applicant prior to the time it made disclosures to the other parties? If so, describe when this disclosure was made, to whom it was made, how it was made, and describe the substance of the disclosure.

Response 4: No, MassDEP did not disclose the existence of the data to the Applicant prior to the time it made disclosures to the other parties. All parties were informed about the data at the same time.

To the best of my knowledge, and following a diligent search by MassDEP staff, attached to this Affidavit is all correspondence created by and received by MassDEP from Monday, May 13, 2019 through Friday, May 17, 2019 related in any way to the revised Alpha reports.

Signed under the pains and penalties of perjury this 22nd day of May, 2019.

A handwritten signature in black ink, appearing to read "Glenn Keith". It is written in a cursive style with a horizontal line underneath the name.

Glenn Keith

